

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
MADHU DAVA,)
)
PLAINTIFF,)
)
V.)
CITY OF NEW YORK, CINDY PENA, NYPD,)
NYPD DETECTIVE SALVATOR GIARDINA,)
JOSEPH BIDEN and BILL CLINTON)
)
DEFENDANTS.)
-----X	

COMPLAINT

INDEX NO.

JURY TRIAL DEMANDED

Preliminary Statement

1. Drafted by then Senator Joseph Biden and ratified by then President Bill Clinton, the Violent Crime Control and Law Enforcement Act ("VCCLEA") and the Violence Against Womens Act ("VAWA") Laws of 1994, coupled with purposefully recruited police officers across America who are inherently racist, selectively enforce badly written laws, and politically target certain individuals, have resulted in the past 20 years mass incarcerations and unfair and illegal arrests, prosecutions and convictions of tens of millions of men (and now women) mostly of minority (African-American, Latino, and other minorities) disproportionately than their white counterparts.
2. This has devastated entire communities, neighborhoods, cities, and states with the wholesale destruction of American families, causing children to grow up without fathers (and mothers), increases in other social ills, and the stunting of the growth and development of minority communities which have been targeted by these unjust laws.
3. The *de jure* and *de facto* results of the selective enforcement and prosecution of the VCCLEA and VAWA Laws has completely abrogated the constitutional protections afforded by the 1st, 2nd, 4th, 5th, 6th, 13th and 14th Amendments to the point where anyone can be arrested, prosecuted, and convicted of any crime enumerated by these 2 statutes, often without any evidence or probable cause needed to ensnare minority citizens within the criminal justice system, enriching the private prison industry, fattening the family court/child protective service/child support state rackets system by forcing men (and women) to pay into state child support coffers to care for their children, in exchange for a financial "cut of the proceeds," and have otherwise ruined whole communities.
4. Even good police officers have reported that they no longer have discretion in making arrests under the VCCLEA and VAWA Laws, and

even when a complaining party recants, admits they lied, or fabricates allegations in order to entrap someone within these draconian laws, the state often and routinely picks up the case and aggressively prosecutes those innocent parties without compassion or humanity, spearheaded by equally racist or politically motivated District and US Attorneys all throughout the nation, defeating the entire purpose of the justice system.

5. In 2015, former President Bill Clinton announced in several major newspapers that enacting the VCCLEA and VAWA laws were the "worst mistakes of his entire career," and resulted in the horrifying statistics that 1/3 of all black children being born today will end up in jail due to these 2 statutes, 1/6 of all Latinos, while only 1/17 of white children will end up falling into this quagmire. This admission of the crux of our lawsuit further militates that this abuse has to end.
6. President Obama only has 1-2 years left in office, so these 2 discriminatory laws need to be reformed now and urgently, before the time is lost and a non-minority president is elected to office, and we will lose our brief shining moment in history to rectify the wrongs of our institutionally racist society, particularly within law enforcement, the criminal justice system, the civil courts system and in our other institutions.
7. Reforming or repealing these 2 badly written federal laws will be a huge and positive step in that direction.
8. The exhibits section contains some academic, scientific, and news media documentation to substantiate the points made herein.
9. Studies have shown that the vast majority of those men unfairly prosecuted under the VCCLEA and VAWA statutes are those men that stayed too long in a bad relationship where they were the ones abused, and who did not or could not leave the relationship quickly enough, either because of housing or children issues, and where the female in the relationship used the unconstitutional protections afforded to her under VAWA to further abuse, hurt, and forever destroy the male in the relationship.
10. Plaintiff Madhu Dava was falsely arrested by the 49th Precinct in the Bronx NY by Detective Salvator Giardina and others even though he was completely and totally innocent, and the evidence before his arrest supported his innocence, and that he was falsely accused by a violent drug addicted female girlfriend named Cindy Pena.
11. Even though this woman announced before his detention and arrest that Plaintiff was innocent, and that she was in fact to blame, the NYPD officials arrested and abused Plaintiff anyway, and this was a racist and discriminatory action as Plaintiff is an Indian national currently studying/working in the United States, and is

otherwise a model and well-behaved intelligent individual.

12. This type of behavior by the NYPD is unacceptable and Plaintiff's criminal case was subsequently dismissed by the Bronx District Attorneys Office due to the overwhelming evidence that not only was Plaintiff innocent of all charges, but that he was in fact the victim of domestic abuse, assault, battery, threats, and false complaints by this vindictive girlfriend who took advantage of the institutionally racist New York City Criminal Justice system, the racist atmosphere of today's policing, and the ease with which any woman can destroy an innocent man's life with false complaints and false allegations.
13. Madhu Dava's entire criminal case was dismissed on October 22, 2015 at 9 am in Bronx Criminal Court by the District Attorneys Office but not before the NYPD and the City of New York destroyed Plaintiff by sullyng his name, ruining his life, physically, emotionally, financially, professionally, psychologically, and economically traumatizing him, and racially discriminating against him.
14. Furthermore it is alleged that the NYPD further refused to arrest, and the Bronx District Attorney refused to prosecute the false complainant Cindy Pena, even when presented with compelling documentary, medical, and scientific evidence of the her crimes, and instead used her as an agent to destroy Madhu Dava's life for purely racial and discriminatory reasons.
15. It is further alleged that Plaintiff Madhu Dava is one of a score of Indian-Americans being maliciously persecuted as makeshift "hostages" by the US Government and NYC in particular as a way of pressuring India to take a more pro-US foreign policy. This needs to change immediately, and this lawsuit is part of that important process.
- 15b. The City of New York has been duly notified and has been timely served with a Claim with Receipt No 2015-000-1961-3, also attached herein as an Exhibit.

Personal and Subject Matter Jurisdiction and Venue

16. This case involves a Civil Rights action under 42 U.S.C. § 1983 and 1988 wherein the above named Defendants have acted in concert and conspiracy to deprive Plaintiff and others similarly situated in this potential class action of their civil, human, and constitutional rights under the 1st, 4th, 5th, 6th, 13th and 14th Amendments to the US Constitution in violation of rights secured by the Civil Rights Act of 1871 and by the laws and Constitution of the State of New York, in complete and total violation of their job duties as government workers, acting under the color of law and authority, but far exceeding the scope of any possible legal

qualified immunity they might enjoy as government employees, as their behavior and actions far exceeded the normal bounds of federal, state and local law, as well as ethics and base morality, and furthermore they all being law enforcement or attorneys, they were all aware of the current case law in this jurisdiction prohibiting their deprivation of Plaintiff's rights while they acted under color of law and authority in violation of 18 U.S.C. § 242, as described in detail *infra*;

17. This Court has subject matter and personal jurisdiction as this is a civil rights action under 42 §§ 1983 and 1988 for the Defendants' multiple violations of Plaintiff's rights secured by the Civil Rights Act of 1871, 42 U.S.C. § 1983, by the United States Constitution, including its 1st, 4th, 5th, 6th, 13th and 14th Amendments, and by the laws and Constitution of the State of New York. Jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331 and 1343, this being an action seeking redress for the violation of Plaintiff's constitutional and civil rights. Plaintiff further invokes this Court's supplemental jurisdiction, pursuant to 28 U.S.C. § 1367 over any and all state law claims and as against all parties that are so related to claims in this action within the original jurisdiction of this court that they form part of the same case or controversy. Venue in this District is proper under 28 U.S.C. § 1391(b) and (c) in that defendant City of New York is administratively located within the Southern District of New York and the events giving rise to this claim occurred within the boundaries of the Southern District of New York.

Parties

18. Plaintiff is a resident of New Jersey. The named defendants New York City and NYPD reside in New York City, Cindy Pena resides on New York City, Joseph Biden is located at 1600 Pennsylvania Avenue NW, Washington DC 20500 and defendant Bill Clinton is located at 55 West 125th Street, New York NY 10027.

Claims

19. Claims and Causes Of Action which resulted in Plaintiff suffering damages including physical, mental, emotional injury and pain, mental anguish, suffering, humiliation, economic devastation, personal and professional cataclysm, and embarrassment:
 - A. First Claim For Relief - 42 U.S.C. § 1983 and Fourth Amendment - Unlawful Surveillance;
 - B. Second Claim For Relief - 42 U.S.C. § 1983 and Fourth Amendment - Unlawful Eavesdropping;
 - C. Third Claim For Relief - 42 U.S.C. § 1983 and Fourth Amendment - Unlawful Wiretapping and Videotaping;

- D. Fourth Claim For Relief - 42 U.S.C. § 1983 and First and Fourteenth Amendments - Unlawful Deprivation of Rights Acting Under Color Of Law of Plaintiff's Freedom of Speech;
- E. Fifth Claim For Relief - 42 U.S.C. § 1983 and Fifth and Fourteenth Amendment - Unlawful Deprivation of Rights Acting Under Color of Law Using Racial, Religious and Ethnic Discrimination;
- F. Sixth Claim For Relief - 42 U.S.C. § 1983 and Fourth and Fourteenth Amendment - Unlawful Deprivation of Rights Acting Under Color of Law To Be Free From Unlawful Search and Seizure;
- G. Seventh Claim For Relief - 42 U.S.C. § 1983 and Fifth and Fourteenth Amendment - Unlawful Deprivation of Rights Acting Under Color of Law Using Excessive Force;
- H. Eighth Claim For Relief - 42 U.S.C. § 1983 and Fourth and Fourteenth Amendment - Unlawful Deprivation of Rights Acting Under Color of Law In Malicious Prosecution;
- I. Ninth Claim For Relief - 42 U.S.C. § 1983 and Fifth and Fourteenth Amendment - Unlawful Deprivation of Rights Acting Under Color of Law With Regards To The Right To Be Free From Deprivation of Liberty Without Due Process Of Law;
- J. Tenth Claim For Relief - Monell Claim - At all relevant times herein, Defendants developed, implemented, enforced, encouraged, and sanctioned *de facto* policies, practices, and/or customs exhibiting deliberate indifference to the Plaintiff's constitutional rights which caused the violation of such rights; Defendants' unlawful actions were done willfully, knowingly and with the specific intent to deprive Plaintiff of his constitutional rights under the 1st, 4th, 5th, 6th, 13th, and 14th Amendments to the U.S. Constitution; The constitutional abuses and violations by Defendants, through their individual and collective actions, were and are directly and proximately caused by policies, practices, and/or customs developed, implemented, enforced, encouraged, and sanctioned by Defendants including the failure: (1) to adequately supervise and train staff and agents, including the Defendants, thereby failing to adequately discourage further constitutional violations on the part of its staff; (2) to properly and adequately monitor and discipline its staff, including Defendants, and (3) to adequately and properly investigate citizen complaints of misconduct, and, instead, acts of misconduct were tolerated by their employer entities.
- K. Eleventh Claim For Relief - Article 1, Section 11 of New York State Constitution - The acts of Defendants, acting under

color of law in harassing and prosecuting Plaintiff and in physically assaulting Plaintiff were racially motivated and were done without lawful justification, and were designed to and did cause specific and serious bodily harm, pain and suffering to Plaintiff in violation of constitutional rights to equal protection as guaranteed by Article 1, Section 11 of the Constitution of the State of New York;

- L. Twelfth Claim For Relief - Article 1, Section 12 of New York State Constitution - The acts of Defendants, acting under color of law, in subjecting Plaintiff to unlawful search and seizure was in violation of Article 1, Section 12 of New York State Constitution;
- M. Thirteenth Claim For Relief - State Common Law Malicious Prosecution - By their conduct, Defendants maliciously continue proceedings against Plaintiff in violation of the laws of the State of New York, and Defendants, their officers, agents, servants, and employees are responsible for the malicious prosecution of Plaintiff, and all employers therein, under the doctrine of *respondeat superior* are responsible for their staff's wrongdoing.
- N. Fourteenth Claim For Relief - Common Law Intentional Infliction of Emotional Distress;
- O. Fifteenth Claim For Relief - Common Law Negligent Infliction of Emotional Distress;
- P. Sixteenth Claim For Relief - Common Law Negligence;
- Q. Seventeenth Claim For Relief - Common Law Negligent Supervision, Retention and Training.
- R. Eighteenth Claim For Relief - 42 U.S.C. § 1983 and 1st, 4th, 5th, 6th, 13th, and 14th Amendments - Prosecutorial Misconduct.
- S. Nineteenth Claim For Relief - 42 U.S.C. § 1983 and 1st, 4th, 5th, 6th, 13th, and 14th Amendments - Judicial Misconduct.

WHEREFORE, Plaintiff demands that the following remedies to be jointly and severally assessed against all of the Defendants:

- 20. A declaration that Defendants' conduct violated the 1st, 4th, 5th, 6th, 13th, and 14th Amendments to the U.S. Constitution and Plaintiff's rights under the New York State Constitution and state common law in the manners alleged herein, upon consideration of the evidence adduced at trial or otherwise;
- 21. A mandatory injunction requiring that Defendants possessing any negative information arising from the actions complained of herein

shall collect and deliver to the Plaintiff all such records and expunge or delete all such information from their records;

22. A injunction enjoining Defendants from engaging in conduct to retaliate or unlawfully harm the Plaintiff further as described herein;
23. Compensatory damages in an amount to be determined by a jury;
24. Actual and Punitive damages in the amount of \$100,000,000;
25. The convening and empaneling of a jury to consider the merits of the claims herein;
26. Costs and interest and attorneys' fees;
27. Such other and further relief as this Court may deem just and proper.

Rahul Manchanda, Esq

Dated: October 31, 2015
New York, NY

Rahul Manchanda, Esq.
Manchanda Law Office PLLC
17 State Street, Suite 4000
New York, NY 10004
Tel: (212) 968-8600
Fax: (212) 968-8601

CERTIFICATE OF SERVICE

On October 31, 2015, I, Rahul Manchanda, certify that I am over the age of 18 and that I am in the process of serving a copy of this Summons and Complaint and any attached pages using our licensed process server and by first class U.S. Mail, with adequate postage prepaid on all named defendants at their proper addresses.

Rahul Manchanda, Esq

By: Rahul Manchanda, Esq.
Manchanda Law Office PLLC
17 State Street, Suite 4000
New York, New York 10004
Tel: (212) 968-8600
Fax: (212) 968-8601